

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOHN LOUIS CORRIGAN,

Petitioner,

NO. CV-06-034-LRS

vs.

**ORDER DENYING PETITION**

COUNTY OF ADAMS/JUDGE HILL,

Respondent.

Petitioner was convicted of refusing to sign a traffic infraction, a misdemeanor under Washington State law, RCW 46.61.022. Following his jury trial in Adams County, Petitioner was sentenced on May 9, 2003, to 90 days incarceration, with 85 days suspended. Petitioner admits he has already served this sentence. He resides in Auburn, Washington, and is proceeding *pro se*; Respondents have not been served in this action.

By Order filed March 16, 2006, the court directed Mr. Corrigan to amend his petition to demonstrate he was "in custody" as required by 28 U.S.C. §§ 2241(c)(3) & 2254(a). *Maleng v. Cook*, 490 U.S. 488, 490-91 (1989); *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968)). Mr. Corrigan submitted his amended petition, along with a Memorandum in Support of "In Custody" Requirement (Ct. Rec. 5) on May 10, 2006. After review of Petitioner's submissions, the court finds he has

1 failed to satisfy the "in custody" requirement.

2 Mr. Corrigan argues he should be deemed to have been "in custody"  
3 when he filed his petition because (1) he was required to exhaust his  
4 state court remedies prior to filing a habeas action; (2) he had  
5 objected to the trial court's summonses by letter, asserting he was  
6 pursuing post conviction relief; and (3) the state abused process by  
7 issuing an arrest warrant and making Petitioner serve his sentence in  
8 order to preclude Petitioner from seeking state and federal habeas  
9 relief. He asserts the following collateral consequences of his  
10 conviction render him still "in custody": (1) the fact a § 1983 civil  
11 rights complaint was barred under *Heck v. Humphrey*, 512 U.S. 477  
12 (1994); (2) a fine was imposed; (3) there is a possibility of enhanced  
13 future punishment; and (4) his state habeas has already been denied  
14 due to the fact he was not "in custody."

15 In addition, Petitioner contends he is innocent of the underlying  
16 charges because it is unconstitutional to "throw a person in jail" for  
17 refusing to sign a traffic citation and there was insufficient  
18 evidence to support the jury's verdict of guilt. The court does not  
19 find these assertions to be sufficient collateral consequences to  
20 satisfy the "in custody" requirement. See *Maleng*, 490 U.S. at 492  
21 ("[O]nce the sentence imposed for a conviction has completely expired,  
22 the collateral consequences of that conviction are not themselves  
23 sufficient to render an individual 'in custody' for the purposes of a  
24 habeas attack upon it.")

25 Petitioner has demonstrated no restraints on his liberty. Mr.  
26 Corrigan is not on probation, parole or supervised release. See *United*  
27

*States v. Spawr Optical Research, Inc.*, 864 F.2d 1467, 1470 (9th Cir. 1988). His conviction is expired.

Petitioner has failed to demonstrate he is subject to a significant restraint upon his liberty "not shared by the public generally." See *Jones v. Cunningham*, 371 U.S. 236, 240 (1963). Mr. Corrigan can come and go as he pleases. See *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973). His physical presence is not required at any particular place (i.e. mandatory class attendance). See *Dow v. Circuit Court of the First Circuit*, 995 F.2d 922, 923 (9th Cir. 1993). Any future incarceration is a speculative possibility and entirely depends on contingencies well within Petitioner's control. See *Hensley*, 411 U.S. at 351-52.

13        Regardless of his contentions, Petitioner has not shown a  
14 significant restraint constituting "custody". Because Petitioner is  
15 not in custody within the meaning of 28 U.S.C. § 2254, he is not  
16 entitled to invoke federal habeas corpus jurisdiction. Accordingly,  
17 **IT IS ORDERED** this Petition be **DENIED** for lack of subject matter  
18 jurisdiction.

19       **IT IS SO ORDERED.** The District Court Executive is directed to  
20 enter this Order, enter judgment, forward a copy to Petitioner, and  
21 close the file.

**DATED** this 25th day of May, 2006.

*s/Lonny R. Suko*

LONNY R. SUKO  
UNITED STATES DISTRICT JUDGE